

September 28, 2012

Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-A325
Washington, DC 20554

Appeal – CC Docket Nos. 96-45 and 02-6

USAC Appeal Decision Date: August 16, 2012
Form 471Number: 775302
Funding Year: 2011-2012
Billed Entity Name: Jennings School District
BEN: 136928
FRN: 2102193
Service Provider: AT&T Mobility
SPINs: 143025240

Contact Person: Addam Jones, Technology Supervisor
Phone: 314-653-8026
E-mail: jonesa@jenningsk12.org

Decision being appealed: Jennings is appealing USAC's Denial of our SLD Appeal. Both our appeal dated August 2, 2012 and USAC's "Administrators Decision on Appeal", dated August 16, 2012, are attached. Specifically we are appealing a denial of our Funding Request for cellular telephone services. The specific language from the Denial Letter is excerpted below:

"According to our records it was determined that you ultimately did not select the vendor with the highest total points scored. There was no additional information or documentation provided with the appeal. You did not select the vendor with the highest point score on the selection matrix. Consequently, the appeal is denied."

Background

A thorough record of our arguments is contained in the attachments, including our responses to an SLD Selective Review. We awarded the contract for cellular services to AT&T based on a thorough evaluation, with cost as the most important criteria. We believe that we did a great job of following SLD guidelines in our evaluation and selection, but we acknowledge that we did a poor job in documentation. We explained in our response to the Selective Review that the scores were tallied based on independent scoring by four persons. Then all four met to discuss the results. When requested from Selective Review, we provided the original scoring sheets that showed 78.5 points for AT&T versus 79.5 points for Sprint). We assumed that since the raw scores for the two proposed solutions were so close that we could consider this a virtual tie.

While the formal scoring was a virtual tie – the discussion that followed revealed several clear advantages in favor of AT&T. Five of these advantages are included in our original appeal below. While not reflected in the raw evaluation scoring, these differences are significant and would have represented additional costs to the district. In hindsight, we acknowledge that we should have gone back and re-scored the initial evaluations, but we truly believed that the scores were so close as to make that action unnecessary, and we believe that we selected the most cost-effective solution.

Summary of Appeal

We understand that the SLD must have rules. These rules are complicated and in this case we acknowledge that we may have failed to comply with a small technicality in not re-scoring the numerical evaluations. However, we do think that we have demonstrated our understanding and compliance with SLD's rules in that we selected the most overall cost effective solution.

Request

We ask the Commission to consider our arguments and direct USAC to approve our Funding Request.

The denial of this FRN represents an ongoing out-of-pocket cost to the district. The District has already paid in full for all of the services in question and this funding denial will impact the district's finances and ability to deliver new technology services to our students.

Sincerely,

(submitted electronically via ECFS)

Addam Jones
Technology Supervisor, Jennings School District
Phone: 314-653-8026
E-mail: jonesa@jenningsk12.org

Attachments below:

*Cop of Jennings School District's Original SLD Appeal
(includes our Selective Review response and FCDL)*

Cop of SLD's Denial of our Appeal

SLD Appeal re: Jennings School District BEN 136928 FY2011

August 2, 2012

Letter of Appeal - Case #22-398420 (*filed electronically*)

Schools and Libraries Division, Box 125 – Correspondence Unit
80 South Jefferson Road, Whippany, NJ 07981

Contact Information:

| | |
|------------------------|--|
| Contact Person Name: | Terry Laster |
| Contact Person Phone: | 314-653-8036 |
| Contact Person Fax: | 314-653-8017 |
| Contact Person E-Mail: | lastert@jenningsk12.org |

Other Required Information:

| | |
|------------------------|--------------------------|
| Funding Year: | 2011-2012 |
| Applicant Name: | Jennings School District |
| Billed Entity # : | 136928 |
| Form 471 Application#: | 775302 |
| FRN #: | 2102193 |
| Service Provider Name: | AT&T Mobility |
| Service Provider SPIN: | 143025240 |

SLD action being appealed:

We are appealing the denial of a single FRN per the FCDL dated June 12, 2012.

Funding Commitment Decision: \$0.00 - bidding Violation

Funding Commitment Decision Explanation: DR1, The winning vendor was not selected in accordance with the process listed in the vendor selection documentation provided during the review.

Basis for this appeal:

We awarded the contract for cellular services to AT&T based on a thorough evaluation, with cost as the most important criteria. We believe that we did a great job of following SLD guidelines in our evaluation and selection, but we acknowledge that we did a poor job in documentation. We explained in our response to the Selective Review (attached below) that the scores were tallied based on independent scoring by four persons. Then all four met to discuss the results. We assumed that since the scores for the two proposed solutions (AT&T vs. Sprint) were so close (78.5 points for AT&T vs. 79.5 points for Sprint) that we could consider this a virtual tie. While the formal scoring was a virtual tie – the discussion that followed revealed several clear advantages in favor of AT&T. Five of these advantages are included in our original response below. We acknowledge that we should have re-scored the evaluations, but we truly believed that the scores were so close as to make that action unnecessary.

SLD Appeal re: Jennings School District BEN 136928 FY2011

Summary and Requested Action:

The denial of this FRN represents an ongoing out-of-pocket cost to the district. We understand that the SLD must have rules. These rules are complicated and in this case we acknowledge that we may have failed to comply with a small technicality in not re-scoring the numerical evaluations. However, we do think that we have demonstrated our understanding and compliance with SLD's rules in that we selected the most overall cost effective solution.

We are requesting that the SLD re-consider our application and restore funding for this FRN.

Sincerely,

(Filed electronically via SLD website)

Terry Laster

lastert@jenningsk12.org

Att A: Copy of Selective Review response sent to SLD.

Att B: Copy of Bid Evaluation response provide to SLD

Att C: Denial Page from FCDL dated 6/12/12

SLD Appeal re: Jennings School District BEN 136928 FY2011

Attachment A – Excerpted from SLD Selective Review CASE SR-2011 -BEN# 136928 - response provided by JSD to Kenneth Solomon via email on 11/04/2011.

II) Vendor Selection Process:

- For FRN **2102193** you provided Vendor Selection documentation that indicates that Sprint provided the most cost-effective proposal for your cellular services, however, AT&T was selected as the service provider. This is violation of the program rules.

Based on the documentation you provided during the Selective Review, FRN 2102193 will be denied because the winning vendor was not selected in accordance with the process listed in the vendor selection documentation provided during the review. Although price was given the highest points, the vendor selected was not the one with the highest total score overall. You did not adhere to your own criteria in the vendor selection process. Applicants must select the most cost-effective provider of the desired products or services eligible for support, with price as the primary factor. For additional guidance on vendor selection, please refer to the USAC website at <http://www.usac.org/sl/applicants/step04/>.

If the FRN should not be denied and you have alternative information, please provide the supporting documentation.

If you fail to respond to this email within 7 days, we will perform the action(s) listed above.

ANSWER

During the evaluation phase each committee member (There were 4 Committee members for this project) provides a total for categories 2-5 on the evaluation matrix. Then, the results of categories 1-5 are recorded on the summary document and, the committee and the Chief Information Officer discussed the results and decided through consensus on the recommendation of award for the project.

While acceptable and with a one-point lead, Sprint had some issues that were identified during the discussion. Those issues were:

- 1) The district had invested in the standardization of the Microsoft (MS) Version 7 Suite of products including MS Exchange, which is the email (Data) system that interfaces with the Cell Phone Data System called, "Windows Mobil", which supported MS Version 7 Operating System.
- 2) Although Sprint's initial offer was their Blackberry System, they proposed their version of Windows Mobil version 6.X, which was not compatible with MS 7 Operating System.
- 3) At that time, Sprint could only offer one cell phone model and it would require the District to change out all existing Windows Mobil cell phones. That change would include moving all cell phone numbers of each existing cell phone to Sprint's recommended Windows Mobil solution.
- 4) The Sprint's solution would also have an impact on the existing server to convert to the Sprint solution.
- 5) AT&T provided the existing system. Their proposed solution included multiple cell phones models and, was compatible and upgradable with the current total solution.

We were committed the integrity of the bid process and were conscience of the point difference but, in the final analyst, we felt that it was neither economical nor productive to select the Sprint solution.

SLD Appeal re: Jennings School District BEN 136928 FY2011

Attachment B: Bid evaluation provided to SLD SRIR.

| Purchase of Cell Phone Services | | | | FRN - 2102193 | | |
|--|---------|-------------------------------|--|----------------------|-----------|-------|
| | | | | Points | | |
| | Bidders | Status | | Cost | Technical | Total |
| 1) | AT&T | \$4,620/Month = \$55,440/Year | | 38 | 40.5 | 78.5 |
| 2) | Sprint | \$4,405/Month = \$52,860/Year | | 40 | 39.5 | 79.5 |

FUNDING COMMITMENT REPORT
Billed Entity Name: JENNINGS SCHOOL DISTRICT
BEN: 136928
Funding Year: 2011

Comment on RAL corrections: The applicant did not submit any RAL corrections.

Form 471 Application Number: 775302
Funding Request Number: 2102193
Funding Status: Not Funded
Category of Service: Telecommunications Service
Form 470 Application Number: 975860000845486
SPIN: 143025240
Service Provider Name: AT&T Mobility
Contract Number: N/A
Billing Account Number: N/A
Multiple Billing Account Numbers: N
Service Start Date: 07/01/2011
Service End Date: N/A
Contract Award Date: 02/25/2011
Contract Expiration Date: 06/30/2012
Shared Worksheet Number: 1282220
Number of Months Recurring Service Provided in Funding Year: 12
Annual Pre-discount Amount for Eligible Recurring Charges: \$55,440.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$55,440.00
Discount Percentage Approved by the USAC: 90%
Funding Commitment Decision: \$0.00 - Bidding Violation
Funding Commitment Decision Explanation: DRI: The winning vendor was not selected in accordance with the process listed in the vendor selection documentation provided during the review.

FCDL Date: 06/12/2012
Wave Number: 048
Last Allowable Date for Delivery and Installation for Non-Recurring Services: 09/30/2013
Consultant Name: CARLOS ALVAREZ
Consultant Number (CRN): 16048893
Consultant Employer: E-Rate 360 Solutions, LLC



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2011-2012

August 16, 2012

Donald J. Dietrich
E-Rate Professionals
200 Oakbriar Farm Drive
Ballwin, MO 63021

Re: Applicant Name: JENNINGS SCHOOL DISTRICT
Billed Entity Number: 136928
Form 471 Application Number: 775302
Funding Request Number(s): 2102193
Your Correspondence Dated: August 02, 2012

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2011 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 2102193
Decision on Appeal: **Denied**
Explanation:

- According to our records it was determined that you ultimately did not select the vendor with the highest total points scored. There was no additional information or documentation provided with the appeal. You did not select the vendor with the highest point score on the selection matrix. Consequently, the appeal is denied.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you

are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company